

The Salisbury Planning Board held its regular meeting Tuesday, March 28, 2006, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Lou Manning, Brian Miller, Sandy Reitz, Valarie Stewart, Albert Stout, Dr. Kelly Vance, Price Wagoner, Charlie Walters, and Diane Young

ABSENT: Bryce Ulrich, Charlie Walters, Vacancy

STAFF: Janet Gapen, Dan Mikkelsen, Preston Mitchell, Diana Moghrabi, Joe Morris, and David Phillips

Light refreshments were served prior to the meeting in appreciation of the Planning Board and their service this year.

Chairman Brian Miller called the meeting to order and offered the invocation. The minutes of the March 14, 2006, meeting were approved as published. Staff publicly thanked the Planning Board for their public service. Bryce Ulrich, Charlie Walters, and Bryan Duncan will not be returning for the next year. Chairman Brian Miller received a plaque. A new year begins in April.

OLD BUSINESS

Zoning Map Amendment

Z-1-06 **Scott Neely, Petitioner**
866 Henkel Rd.
Statesville, NC 28677

LOCATION: 1310 Julian Road, along north side of Julian Road, abutting the western property line of the County Fairgrounds.

From: A-1

To: R6-A W/ HD Overlay

Parcel: 063 - 023

Acres: 16.18

Committee Recommendation

Committee report submitted to Planning Board:

The Planning Board's Legislative Committee B convened their meeting on March 20, 2006, to discuss the current rezoning petition, Z-01-06, to rezone approximately 16.18 acres along the north side of Julian Road between the County EMS facility and the County fairgrounds site. In attendance were Sandy Reitz, Lou Manning, Diane Young, Albert Stout, Price Wagoner, Randy Harrell (EDC), Bill Wagoner (EDC), Earl Holt (property owner), Lin Litaker (realtor), Scott Neely (petitioner), Jim Sides (County Commissioner), and staff.

The meeting began with a brief overview of the case and what was previously discussed at the March 14 Planning Board meeting. Staff began with a history of the case and justification for the staff recommendation to approve to City Council.

Discussion began with the following question being raised: What is the conflict of this zone change with Summit Corporate Park? Mr. Harrell responded by stating that the existing covenants for development are strong and should help prevent noxious industrial uses from locating there, but that the traffic potentially generated by a high-density residential development is of great concern – especially with the recent construction of the new Koontz Elementary School. In addition, he stated that Summit and the EDC, although they have not officially reviewed the case, have an aggressive marketing plan in place and are concerned how this rezoning may impact their plan.

Staff reminded the board that due to the cumulative nature of the current Zoning Code, if the property were zoned M-1 (Light Industrial), a multi-family project could still be developed on the site. The High-Density (HD) Overlay would simply have to be granted before the requested density could be achieved.

Mr. Stout stated that high volumes of traffic should be expected along Julian Road, especially since it has recently been upgraded to a Major Thoroughfare on the City's Thoroughfare Plan.

Mr. Holt added that the County fairgrounds are not as active as they have been in the past and questions its future. He claimed that the County once approached him regarding purchase of his land for fairgrounds parking, but that they never followed through. He concluded by saying that he is a disadvantaged property owner in the area because he doesn't have the ability to issue incentives for sale or development of his land like the County is able to do with the corporate park.

Ms. Reitz believes that this area is "right" for industrial development and that it is established to support such. She is concerned that development of the subject site into multi-family residential may limit the options for future industrial development in the area.

Ms. Young then asked Mr. Harrell to what types of industry and/or business the EDC and Summit were marketing themselves? This was not directly answered because several people began speaking.

Mr. Manning raised the following question: From a land use and planning perspective, what is the problem with multi-family uses and corporate/industrial development co-existing? Staff responded by stating that when an area has yet to exhibit a clear development pattern or predominant land use, the establishment of a new land use – especially a fairly intensive one – generally sets the "tone" for future development and sometimes affects the market price of undeveloped lands. Staff speculated that the EDC's greatest concern was change in market value of surrounding lands as well as the more obvious oil-and-water effect you often get between residential uses and large scale corporate or industrial development. Again, staff reminded everyone that that was speculation from a planning and land use perspective since the EDC has not made an official statement on the rezoning petition.

Mr. Manning made a MOTION: That this change in zoning is consistent with the goals, objectives, and policies for growth and development in the City of Salisbury as contained within the 2000 Strategic Growth Plan and the Vision 2020 Comprehensive Plan, and hereby recommend approval of Zoning Petition Z-01-06. This motion was seconded by Mr. Stout. The motion passed (3-2) by the five-member committee.

Mr. Miller allowed the public another opportunity to speak.

Those speaking in favor of the request:

Mr. Earl Holt, property owner, resides at 308 Rosemary Lane, Gastonia, NC, 28054. He made himself available for questions and stated the importance of this rezoning to his family and to the sale of the property. He pointed out that the building of the apartments would create jobs and economic growth in the present.

Rowan County Commissioner, Jim Sides of 150 Henkle-Craig Farm Road, stated that he was speaking on behalf of the citizens of Rowan County. He stated that he believes this will be a good project, a good mix for the property. The County on more than one occasion has had opportunity to purchase the property if they had so desired; that way they could control what was built on the property. There is a school in the area; there is a rescue squad, a motel, the animal shelter, and the fair grounds. At this time, it has not been decided what will happen to the fair grounds. He does not believe the county would buy the property for additional parking. This may be the one opportunity this family has to capitalize on the property and should be given the right to do so.

Those speaking in opposition:

None

Board Discussion

At this Planning Board meeting Diane Young said she had voted in favor at the committee meeting. She had concerns about the R-6-A uses and particularly the use of mobile homes which could be a potential detriment to the development of the surrounding land. She also has concerns about connectivity to property behind this parcel. A road or a stub-out should be encouraged to allow for the potential access of the land behind it to Julian Road. If the motion is approved, she would feel better if Planning Board encouraged City Council to consider an “S” district to remove mobile homes from the potential uses and to provide for access from the rear parcels to Julian Road. With this worked into the mix, she would feel better about the rezoning.

Lou Manning agreed with the addition of an “S” district to eliminate mobile homes. Mr. Manning reviewed the property closely a few days ago and described the area. There is already a precedent out there. There is a huge gap between the property and the community college which is identified as a flood plain. He does support the project.

David Phillips clarified that mobile home uses are a conditional use and would have to be approved by the Zoning Board of Adjustment. It is not permitted by right; it would have another step with conditions that could be placed on the property, such as number of units.

Brian Miller reiterated that this is a rezoning and not a site plan. Protection from the mobile home use does seem to be in place. He asked members to mention any other uses that may be of future concern. There is not a land use plan in place to prevent this rezoning. Even though he thinks there is a higher and better use for this property if it were developed industrial, he feels it must go forward and will be in favor.

Lou Manning: I move that this change in zoning is consistent with the goals, objectives, and policies for growth and development in the City of Salisbury as contained within the 2000 Strategic Growth Plan and the Vision 2020 Comprehensive Plan, and hereby move to recommend approval of Zoning Petition Z-01-06.

Mark Beymer asked if the MOTION could be amended to include a recommendation to City Council of an "S" and the connectivity through the parcel to the parcel on the far side. Lou Manning amended the MOTION: "This change in zoning is consistent with the goals, objectives, and policies for growth and development in the City of Salisbury as contained within the 2000 Strategic Growth Plan and the Vision 2020 Comprehensive Plan, and hereby recommends approval of zoning petition Z-01-06 with the added recommendation that City Council consider this zoning amendment as a Special Use District (S-District) for the purpose of removing mobile homes from the list of permitted uses and for the purpose of providing access from the rear parcels (to the north) through the subject site to Julian Road." The Statement and Motion passed 9-0.

Mr. Miller told Mr. Holt that this case is already on the City Council agenda for April 4, 2006.

NEW BUSINESS

T-05-06: Amendments to Secure Compliance with the 2005 North Carolina General Statutes Legislation. This is a request from the City of Salisbury. The following is the staff report given to Planning Board.

The request is to amend Article XIX of the Salisbury Zoning Code so as to make the City's Amendment and Notification section consistent with the recent Clarification Bill (S-518) as ratified by the NC General Assembly in 2005.

This past fall of 2005, the NC General Assembly passed two pieces of important Planning legislation. The first bill (S-518) tackles some long-awaited housekeeping of zoning and development processes. These changes tightened some requirements and loosened others, but generally address processing and other such technical matters. The second bill (S-814) tackles more than technical housekeeping issues. This Modernization Bill makes some significant changes to the way cities and counties were zoning land, voting practices, and the types and methods of developing Zoning Codes.

This case, T-05-06, only addresses changes required under the Clarification Bill (S-518). Since we as a city have yet to really test many of the modernization requirements at the Planning Board and City Council levels, those modernization amendments will be delayed until the City can develop those new methodologies. However, we should be able to move forward with these clarification changes since they primarily deal with noticing, protest petitions, referrals, etc.

Proposed Clarification Amendments

1. Planning Board recommendations on all proposed zoning text and map amendments shall be submitted to City Council within 30 days of submission to the Planning Board.
2. It is now a state requirement to post a sign on the rezoning site, although the City already requires this.
3. Protest Petitions shall no longer apply to text amendments and now only apply to zoning map amendments.
4. When voting members recuse themselves, and in cases of vacant seats, these seats are not considered in calculation of the required three-fourths-majority vote that is required for a protest petition.
5. The area for valid protest shall be 20 percent of the area included or 5 percent of a 100-foot perimeter buffer, and if less than a full parcel is petitioned for rezoning the entire property boundary shall be used to compute the buffer.
6. A protest petitioner may withdraw his or her name from a protest petition before the final vote is taken on a rezoning matter. The protest petition will only be valid when all requisite names remain in place at the time of the vote.

PROPOSED TEXT

ARTICLE XIX. AMENDMENTS AND NOTIFICATIONS*

Section 19.01. Amendment procedure.

This ordinance, including the zoning map, may be amended from time to time, but no amendment shall become effective unless it ~~shall have been proposed by, or~~ shall have received a planning board recommendation. ~~The planning board shall have forty five (45) days within which to submit its recommendation. City council may allocate up to forty five (45) days of additional time to the planning board. If the planning board fails to submit a recommendation within the aforementioned time period, it shall be deemed to have approved the proposed amendment.~~ All proposed amendments to the zoning ordinance or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, City Council may proceed in its consideration of the amendment without the planning board report. A public hearing shall be held by the city council before adoption of any proposed amendment to this ordinance. A notice of such public hearing shall be given once a week for two (2) successive calendar weeks in a

newspaper having general circulation in the City of Salisbury, North Carolina. Such notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. Such period shall be computed in compliance with G.S. 1-594, and shall not be subject to rule 6(a) of the Rules of Civic Procedure.

~~In the case of a protest against an amendment, supplement, change, modification or repeal signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending one hundred (100) feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendment shall not become effective except by favorable vote of three fourths of all members of the city council. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of this ordinance as a result of annexation or otherwise.~~

~~No protest against any change or amendment in the zoning ordinance or to the zoning map shall be valid or effective unless it be in the form of a written petition actually bearing the signature of the requisite members of the property owners and stating that the signers do protest the proposed change or amendments, and unless the petition shall have been received by the municipal clerk in sufficient time to allow the municipality at least two (2) normal workdays, excluding Saturdays, Sundays, and legal holidays, prior to the date established for the public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. In addition to the owner's signature, the petition may also identify the parcel(s) by tax map number and parcel number which qualify the signer to the privileges of petition as set out herein. Zoning ordinances may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of the city council. For the purposes of this subsection, vacant positions on the council and members who are excused from voting shall not be considered 'members of the council' for calculation of the requisite supermajority. To qualify as a protest under this section, the petition must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the 'owners' of potentially qualifying areas. A petition protesting a zoning proposal may be on a petition form as prescribed and furnished by the City of Salisbury, North Carolina.~~

The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (i) special use district, (ii) conditional use district, or (iii) conditional district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use district, conditional use district, or conditional district.

A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the supermajority voting requirement.

(Ord. of 7-19-66, § 1; Ord. of 10-17-67, § 1; Ord. No. 1977-62, § 1, 12-20-77; Ord. No. 1981-19, § 1, 4-12-81; Ord. No. 1990-5, § 1, 2-6-90; Ord. No. 1999-26, § 1, 5-4-99)

Section 19.02. Notification procedure.

Below is a listing of the notification procedure on all matters to be considered in this zoning ordinance and the reviewing board(s) for each type of request. When more than one (1) reviewing board is listed, the first board reviews and recommends, while the latter board has the power of approval (or disapproval); when only one (1) board is listed, that board reviews and approves (or disapproves).

TABLE INSET:

Reviewing Board(s)	Zoning Matter		Notification (see below)
PB and CC	(1)	Zoning map amendment	A, B, C, D, E
PB and CC	(2)	Zoning text amendment	A, B, D
PB	(3)	Group development (section 12.06)	
	(a)	For development in the B-7 district (section 8.43)	A, B, C
	(b)	For more than 1 principal structure on a lot	A, B, C
	(c)	For a structure divided by 3 or more dividing walls which separate businesses or residences	A, B, C
	(d)	For any structure of 60,000 sq. ft. of more to be used for other than warehousing or industrial purposes	A, B, C

PB and CC	(4)	Development within RD-A (section 8.21) and RD-B (section 8.23) districts		A, B, C
	(5)	2 or more acre developments in B-RT district (section 12.27)		
PB		(a)	Developments qualifying as group developments	A, B, C
PB and CC		(b)	Developments qualifying as special group developments	A, B, C
ZBA	(6)	Administrative review		A, B
ZBA	(7)	Variance		A, B, C
ZBA	(8)	Conditional uses		A, B, C
PB and CC	(9)	Special use (section 7.01(5)(a))		A, B, D
CC	(10)	Special use (section 7.01(5)(b))		A, B, C, D, F
PB and CC	(11)	Special use (section 7.01(5)(c))		A, B, C
ZBA	(12)	Special exception		A, B, C, D
ZBA	(13)	Other special referrals		A, B
HDC	(14)	Certificate of appropriateness		A, B, C
PB and CC	(15)	Special use (section 7.01(5)(c)(i) and 7.01(5)(e))		A, B, C, E

TABLE INSET:

<i>Reviewing boards:</i>	
CC	City Council
PB	Planning Board
ZBA	Zoning Board of Adjustment
HDC	Historic District Commission
<i>Notification:</i>	
A	Notification to newspaper (The Salisbury Post) in the form of an agenda with the listing of this item.
B	Notification to petitioner requesting this matter.
C	Notification to all property owners of the site(s) involved and all property owners

	within 100 feet of the site(s). Notification is by first class mail. Owners of properties are identified as such as listed in the Rowan County tax office.
D	Notification of public hearing as a legal advertisement in The Salisbury Post. Advertisement is done twice, the first time being at least ten (10) days prior to the public hearing; the second time being the following week.
E	Notification by posting zoning sign or special use permit sign <u>on the site proposed for rezoning or on an adjacent public street or highway right-of-way.</u>
F	Notification to all members of the historic preservation commission.

(Ord. No. 1989-25, § 1, 6-20-89; Ord. No. 1994-8, § 7, 3-1-94; Ord. No. 1996-35, § 19, 9-3-96; Ord. No. 1998-28, § 11, 5-19-98; Ord. No. 1999-27, § 1, 5-4-99; Ord. No. 2002-81, §§ 3, 4, 12-3-02)

Valarie Stewart made a MOTION: “I move that this zoning text amendment is consistent with the 2005 Planning Law Clarification Bill, as ratified by the North Carolina General Assembly, and hereby move to recommend approval of Zoning Text Amendment T-05-06. Albert Stout seconded the motion with all members voting AYE. (9-0)

COMMITTEES

Committee 1–Sidewalk Plan will meet with Steve Weatherford Wednesday, March 29, at 8 a.m. in the first floor conference room. Brian Miller, Sandy Reitz, Lou Manning will be on the committee.

Committee 2 will review the process of Courtesy Hearings Monday, April 3, at noon in the second floor conference room. Mark Beymer will serve as an alternate on that committee.

OTHER BOARD BUSINESS

Staff

The public art finalist for the installation at the eastern gateway is currently on display at the visitors’ center.

There being no further business to come before the Planning Board, the meeting was adjourned at 5:00 p.m.

Brian Miller, Chairman

Lou Manning, Vice Chairman

Secretary, Diana Moghrabi